

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED)
RICE LITIGATION) Case No. 4:06MD1811 CDP
)

This Order Relates to:
Riviana Foods, Inc. Case No. 4:08CV0375 CDP
v. Bayer Cropscience, AG, et al.

MEMORANDUM AND ORDER

Westmill Foods and Van Sillevoldt Rijest, B.V. are European buyers of rice seeking to intervene as plaintiffs in this non-producer case. Westmill and VSR both claim they have interests that may be affected by this litigation, and they seek to assert claims against plaintiff Riviana and against defendants Riceland, Producers Rice Mill, and Bayer. Westmill and VSR bring their motions under Fed. R. Civ. P. 24(a)(2), intervention as of right, or in the alternative under Fed. R. Civ. P. 24(b), permissive intervention.

A. Intervention as of right.

A movant is entitled to intervention as of right in cases where it is given an unconditional right to do so by statute, or where the movant claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent


that interest. Fed. R. Civ. P. 24(a). Westmill and VSR have not met their burden to show that they have an interest relating to the property or transaction that is the subject of this litigation. Although Westmill and VSR seek to assert causes of action against both plaintiffs and defendants in this case, there is nothing in movants' claims that is necessarily an interest that would be impaired or impeded by the this case. The movants' interest in the current litigation is only indirect at best, and is not of the type that necessitates intervention by right.

B. Permissive intervention.

A movant may be granted leave to intervene where the movant has a claim or defense that shares with the main action a common question of law or fact. Fed. R. Civ. P. 24(b)(1). Although Westmill and VSR assert claims that share common questions of law or fact with the current litigation, I conclude that intervention at this stage would unduly delay or prejudice the adjudication of the original parties' rights. I will therefore deny the movants' request for permissive intervention.

Accordingly,

IT IS HEREBY ORDERED that movants Westmill and VSR's motions [##80, 81, 88, 91] to intervene in this action are DENIED.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 1st day of May, 2009.